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6
UNITED STATES DISTRICT COURT
 7
DISTRICT OF NEVADA

8 JOHN CHRISTOPHER, MARIKA
 9 CHRISTOPHER, and L.C., a minor by and
 through her guardians ad litem JOHN
 10 CHRISTOPHER and MARIKA
 CHRISTOPHER,

11 Plaintiffs,
 12
 v.

13 DOUGLAS COUNTY SCHOOL DISTRICT,
 14 KATHLEEN GOHEEN, SUSAN LACEY, and
 DOES 1-30,

15 Defendants.

Case No. 3:16-cv-567-MMD-WGC

ORDER [PROPOSED]

17 Before the court is plaintiffs John Christopher and Marika Christopher (“Christophers”) and
 18 L.C.’s, a minor, motion for order confirming settlement. ECF No. 11. Defendants Douglas County
 19 School District (“DCSD”), Kathleen Goheen (“Goheen”), and Susan Lacey (“Lacey”) (collectively
 20 “Defendants”) filed a non-opposition to the motion. ECF No. 12.

21 **I. Facts and Procedural Background**

22 Plaintiff L.C. is a child with special needs, who attended Gene Scarselli Elementary School
 23 within the DCSD in the 2014-2015 school year. During said school year, L.C. was allegedly
 24 abused by Goheen. L.C. was assigned to Lacey’s special needs classroom for the 2015-2016
 25 school year. During the 2015-2016 school year, L.C. was allegedly abused by Lacey on multiple
 26 occasions.

1 On September 30, 2016, plaintiffs filed the underlying complaint against defendants
 2 alleging seven causes of action: (1) excessive force in violation of 42 U.S.C. §:1983; (2)
 3 discrimination in violation of the Americans with Disabilities Act (“ADA”); (3) violation of § 504
 4 of the Rehabilitation Act of 1973; (4) violation of NRS 651.090; (5) battery; (6) intentional
 5 infliction of emotional distress; and (7) negligence. ECF No. 1. After the action was filed, the
 6 parties agreed to settle plaintiffs’ claims for \$150,000. Thereafter, plaintiffs filed the present
 7 motion to confirm settlement. ECF No. 11. Defendants filed a non-opposition to said motion.
 8 ECF No. 12.

9 **II. Discussion**

10 “District courts have a special duty, derived from Federal Rule of Civil Procedure 17(c), to
 11 safeguard the interests of litigants who are minors.” *Robidoux v. Rosengren*, 638 F.3d 1177, 1181
 12 (9th Cir. 2011). “Rule 17(c) provides, in relevant part, that a district court ‘must appoint a
 13 guardian ad litem—or issue another appropriate order—to protect minor or incompetent person
 14 who is unrepresented in an action.’” *Id.* (quoting FED.R.CIV.P. 17(c)). “In the context of
 15 proposed settlements in suits involving minor plaintiffs, this special duty requires a district court to
 16 ‘conduct its own inquiry to determine whether the settlement serves the best interests of the
 17 minor.’” *Id.* (quoting *Dacanay v. Mendoza*, 573 F.2d 1075, 1080 (9th Cir.1978)).

18 As the Ninth Circuit has recently made clear, in cases involving the settlement of a minor’s
 19 claims, district courts should “limit the scope of their review to the question whether the net
 20 amount distributed to each minor plaintiff in the settlement is fair and reasonable, in light of the
 21 facts of the case, the minor’s specific claim, and recovery in similar cases,” and should “evaluate
 22 the fairness of each minor plaintiff’s net recovery without regard to the proportion of the total
 23 settlement value designated for adult co-plaintiffs or plaintiffs’ counsel—whose interest to the
 24 district court has no special duty to safeguard.” *Id.* At 1181-82 (citing *Dacanay*, 573 F.2d at 1078).

25 Here, L.C., through her guardians ad litem, has agreed to settle her claims against
 26 defendants. According to the express terms of the settlement, defendants shall pay plaintiffs
 27 \$150,000 in exchange for the release of all claims. Plaintiffs’ counsel is set to receive 1/3 of the
 28 total settlement as a contingent fee, calculated before the deduction of expenses, for a total fee

1 award of \$40,000. After the deduction of fees and costs, the parties have agreed to allocate
2 \$74,617.06 from the remaining net proceeds to L.C., through the creation of a special needs trust.
3 This amount constitutes 80% of the total net settlement, with the remaining 20% of net proceeds
4 going to the parents John Christopher and Marika Christopher for their own personal claims against
5 defendants. A copy of the proposed special needs trust is attached as an exhibit to the motion.
6 ECF No. 11, Exhibit A. The trust has been specifically drafted by John C. Smith of the John Smith
7 Law Firm, an estate planning attorney with a specialized focus on developing estate plans that
8 involve persons with disabilities. *Id.*

9 Upon consideration of the facts of the case, L.C.'s specific claims, the terms of the
10 settlement and recoveries in similar cases, the court finds the settlement to be in the best interest of
11 all of the parties, and specifically L.C., and that the amount of money L.C. will receive
12 (\$74,617.06) for her claims is fair and reasonable. Accordingly, the court shall grant plaintiffs'
13 motion as follows:

- 14 (1) The underling settlement between plaintiffs and defendants in the amount of
15 \$150,000 is APPROVED;
- 16 (2) The creation and funding of the Special Needs Trust attached as Exhibit A to
17 plaintiffs' motion is APPROVED;
- 18 (3) Plaintiffs John Christopher and Marika Christopher, as guardians ad litem shall
19 execute the Special Needs Trust for L.C. pursuant to the terms of that trust;
- 20 (4) Venue for on-going oversight of the special needs trust established herein shall
21 lie with the Ninth Judicial District Court of the State of Nevada in and for the
22 County of Douglas;
- 23 (5) \$74,617.06 in net proceeds for the settlement shall be allocated to and held within
24 the Special Needs Trust of plaintiff L.C.;
- 25 (6) Any trustee bond for the special needs trust shall be waived until such time as the
26 funds of the Trust are released and made accessible to the Trustee;

(7) Attorney's fees in the amount of \$1,500, shall be paid from the Special Needs Trust to the John C. Smith of the John Smith Law Firm for preparation of the special needs trust for the minor plaintiff.

IT IS THEREFORE ORDERED that plaintiffs' motion to confirm settlement (ECF No. 11) is GRANTED in accordance with this order.

IT IS SO ORDERED

DATED this 5th day of April, 2017.



MIRANDA M. DU
UNITED STATES DISTRICT JUDGE